

House Engrossed

State of Arizona
House of Representatives
Forty-fifth Legislature
Second Regular Session
2002

HOUSE CONCURRENT RESOLUTION 2047

A CONCURRENT RESOLUTION

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING TO
TAXATION OF TOBACCO PRODUCTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the House of Representatives of the State of Arizona, the
2 Senate concurring:

3 1. Under the power of the referendum, as vested in the Legislature,
4 the following measure, relating to the taxation of tobacco products, is
5 enacted to become valid as a law if approved by the voters and on
6 proclamation of the Governor:

7 AN ACT

8 CHANGING THE ARTICLE HEADING OF TITLE 36, CHAPTER 6, ARTICLE 8,
9 ARIZONA REVISED STATUTES, TO "TOBACCO TAX FUNDS"; AMENDING TITLE
10 36, CHAPTER 6, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING
11 SECTION 36-770; REPEALING SECTION 36-772, ARIZONA REVISED
12 STATUTES; AMENDING TITLE 36, CHAPTER 6, ARTICLE 8, ARIZONA
13 REVISED STATUTES, BY ADDING A NEW SECTION 36-772 AND SECTIONS
14 36-776, 36-777 AND 36-778; AMENDING TITLE 42, CHAPTER 3, ARTICLE
15 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-3251.01;
16 AMENDING SECTION 42-3302, ARIZONA REVISED STATUTES; RELATING TO
17 TOBACCO TAXES.

18 Be it enacted by the Legislature of the State of Arizona:

19 Section 1. Heading change

20 The article heading of title 36, chapter 6, article 8,
21 Arizona Revised Statutes, is changed from "TOBACCO TAX AND
22 HEALTH CARE FUND" to "TOBACCO TAX FUNDS".

23 Sec. 2. Title 36, chapter 6, article 8, Arizona Revised
24 Statutes, is amended by adding section 36-770, to read:

25 36-770. Tobacco products tax fund

26 A. THE TOBACCO PRODUCTS TAX FUND IS ESTABLISHED
27 CONSISTING OF REVENUES DEPOSITED IN THE FUND PURSUANT TO SECTION
28 42-3251.01 AND INTEREST EARNED ON THOSE MONIES. THE ARIZONA
29 HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION SHALL
30 ADMINISTER THE FUND.

31 B. FORTY-TWO CENTS OF EACH DOLLAR IN THE FUND SHALL BE
32 DEPOSITED IN THE PROPOSITION 204 PROTECTION ACCOUNT ESTABLISHED
33 BY SECTION 36-778.

34 C. FIVE CENTS OF EACH DOLLAR IN THE FUND SHALL BE
35 DEPOSITED IN THE HEALTH RESEARCH FUND ESTABLISHED BY SECTION
36 36-275.

37 D. TWENTY-SEVEN CENTS OF EACH DOLLAR IN THE FUND SHALL BE
38 DEPOSITED IN THE MEDICALLY NEEDY ACCOUNT ESTABLISHED BY SECTION
39 36-774.

40 E. TWENTY CENTS OF EACH DOLLAR IN THE FUND SHALL BE
41 DEPOSITED IN THE EMERGENCY HEALTH SERVICES ACCOUNT ESTABLISHED
42 BY SECTION 36-776.

43 F. FOUR CENTS OF EACH DOLLAR IN THE FUND SHALL BE
44 DEPOSITED IN THE HEALTH CARE ADJUSTMENT ACCOUNT ESTABLISHED BY
45 SECTION 36-777.

1 G. TWO CENTS OF EACH DOLLAR IN THE FUND SHALL BE
2 DEPOSITED IN THE HEALTH EDUCATION ACCOUNT ESTABLISHED BY SECTION
3 36-772.

4 H. EXCEPT AS PROVIDED IN SECTION 36-776, MONIES IN THE
5 FUND:

- 6 1. ARE CONTINUOUSLY APPROPRIATED.
7 2. DO NOT REVERT TO THE STATE GENERAL FUND.
8 3. ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190
9 RELATING TO LAPSING OF APPROPRIATIONS.

10 Sec. 3. Repeal

11 Section 36-772, Arizona Revised Statutes, is repealed.

12 Sec. 4. Title 36, chapter 6, article 8, Arizona Revised
13 Statutes, is amended by adding a new section 36-772, to read:

14 36-772. Health education account; audit; reports

15 A. IN ADDITION TO THE MONIES DEPOSITED PURSUANT TO
16 SECTION 36-770, TWENTY-THREE CENTS OF EACH DOLLAR IN THE TOBACCO
17 TAX AND HEALTH CARE FUND SHALL BE DEPOSITED IN THE HEALTH
18 EDUCATION ACCOUNT FOR PROGRAMS FOR THE PREVENTION AND REDUCTION
19 OF TOBACCO USE, THROUGH PUBLIC HEALTH EDUCATION PROGRAMS,
20 INCLUDING COMMUNITY BASED EDUCATION, CESSATION, EVALUATION AND
21 OTHER PROGRAMS TO DISCOURAGE TOBACCO USE AMONG THE GENERAL
22 POPULATION AS WELL AS MINORS AND CULTURALLY DIVERSE POPULATIONS.

23 B. THE DEPARTMENT OF HEALTH SERVICES SHALL ADMINISTER THE
24 ACCOUNT.

25 C. EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION,
26 MONIES THAT ARE DEPOSITED IN THE HEALTH EDUCATION ACCOUNT:

27 1. SHALL BE USED TO SUPPLEMENT MONIES THAT ARE
28 APPROPRIATED BY THE LEGISLATURE FOR HEALTH EDUCATION PURPOSES
29 AND SHALL NOT BE USED TO SUPPLANT THOSE APPROPRIATED MONIES.

30 2. SHALL BE SPENT FOR THE FOLLOWING PURPOSES:

31 (a) CONTRACTS WITH COUNTY HEALTH DEPARTMENTS, QUALIFYING
32 COMMUNITY HEALTH CENTERS AS DEFINED IN SECTION 36-2907.06,
33 INDIAN TRIBES, ACCREDITED SCHOOLS, NONPROFIT ORGANIZATIONS,
34 COMMUNITY COLLEGES AND UNIVERSITIES FOR EDUCATION PROGRAMS
35 RELATED TO PREVENTING AND REDUCING TOBACCO USE.

36 (b) ADMINISTRATIVE EXPENDITURES RELATED TO IMPLEMENTING
37 AND OPERATING A PROGRAM DEVELOPED PURSUANT TO SUBDIVISION (a) TO
38 AWARD AND OVERSEE CONTRACTS FOR EDUCATION PROGRAMS INCLUDING
39 OBTAINING EXPERT SERVICES TO ASSIST IN EVALUATING REQUESTS FOR
40 PROPOSALS AND RESPONSES TO THOSE REQUESTS.

41 (c) DEPARTMENT OF HEALTH SERVICES EXPENDITURES FOR
42 DEVELOPING AND DELIVERING EDUCATION PROGRAMS THAT ARE DESIGNED
43 TO PREVENT OR REDUCE TOBACCO USE INCLUDING RADIO, TELEVISION OR
44 PRINT MEDIA COSTS. WHEN CONTRACTING FOR THE DEVELOPMENT AND
45 PRODUCTION OF ORIGINAL ADVERTISING MATERIALS, THE DEPARTMENT

1 SHALL REQUIRE ADVERTISING, PRODUCTION AND EDITORIAL FIRMS TO USE
2 THEIR BEST EFFORTS TO EMPLOY OR CONTRACT WITH RESIDENTS OF THIS
3 STATE TO MANAGE, PRODUCE AND EDIT THE ORIGINAL ADVERTISING. THE
4 DEPARTMENT SHALL REPORT ANNUALLY BY DECEMBER 1 TO THE GOVERNOR,
5 THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF
6 REPRESENTATIVES REGARDING INSTANCES WHEN THE DEPARTMENT DID NOT
7 EMPLOY OR CONTRACT WITH RESIDENTS OF THIS STATE, INCLUDING THE
8 REASONS FOR FAILING TO DO SO.

9 (d) THE EVALUATIONS REQUIRED BY SUBSECTION F OF THIS
10 SECTION.

11 D. THE DEPARTMENT OF HEALTH SERVICES SHALL USE MONIES
12 DEPOSITED IN THE ACCOUNT PURSUANT TO SECTION 36-770 FOR THE
13 PREVENTION AND EARLY DETECTION OF THE FOUR LEADING DISEASE
14 RELATED CAUSES OF DEATH IN THIS STATE, AS PERIODICALLY
15 DETERMINED BY THE CENTERS FOR DISEASE CONTROL AND PREVENTION, OR
16 ITS SUCCESSOR AGENCY. INITIALLY, THESE ARE CANCER, HEART
17 DISEASE, STROKE AND PULMONARY DISEASE. THE MONIES SHALL ONLY BE
18 USED TO SUPPLEMENT MONIES THAT ARE APPROPRIATED BY THE
19 LEGISLATURE AND SHALL NOT BE USED TO SUPPLANT THOSE APPROPRIATED
20 MONIES.

21 E. MONIES FROM THE HEALTH EDUCATION ACCOUNT SHALL NOT BE
22 SPENT FOR LOBBYING ACTIVITIES INVOLVING ELECTED OFFICIALS OR
23 POLITICAL CAMPAIGNS FOR INDIVIDUALS OR ANY BALLOT MEASURE.

24 F. THE DEPARTMENT OF HEALTH SERVICES SHALL EVALUATE THE
25 PROGRAMS ESTABLISHED PURSUANT TO SUBSECTION C, PARAGRAPH 2 OF
26 THIS SECTION AND SHALL BIENNIALLY SUBMIT A WRITTEN REPORT OF ITS
27 FINDINGS TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE
28 SPEAKER OF THE HOUSE OF REPRESENTATIVES. THE DEPARTMENT OF
29 HEALTH SERVICES SHALL PROVIDE A COPY OF EACH REPORT TO THE
30 SECRETARY OF STATE AND THE DIRECTOR OF THE ARIZONA STATE
31 LIBRARY, ARCHIVES AND PUBLIC RECORDS. THE DEPARTMENT OF HEALTH
32 SERVICES SHALL SUBMIT ITS FIRST REPORT ON OR BEFORE NOVEMBER 15,
33 2004. THE FIRST REPORT SHALL INCLUDE DATA BEGINNING IN FISCAL
34 YEAR 2001-2002.

35 Sec. 5. Title 36, chapter 6, article 8, Arizona Revised
36 Statutes, is amended by adding sections 36-776, 36-777 and
37 36-778, to read:

38 36-776. Emergency health services account

39 A. THE EMERGENCY HEALTH SERVICES ACCOUNT IS ESTABLISHED
40 CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION 36-770. THE
41 ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION SHALL
42 ADMINISTER THE ACCOUNT. THE ADMINISTRATION SHALL USE ACCOUNT
43 MONIES SOLELY FOR THE REIMBURSEMENT OF UNCOMPENSATED CARE,
44 PRIMARY CARE SERVICES AND TRAUMA CENTER READINESS COSTS.

1 B. MONIES IN THE ACCOUNT ARE SUBJECT TO LEGISLATIVE
2 APPROPRIATION. ANY MONIES REMAINING UNEXPENDED AND UNENCUMBERED
3 ON JUNE 30 OF EACH YEAR IN THE ACCOUNT REVERT TO THE PROPOSITION
4 204 PROTECTION ACCOUNT ESTABLISHED BY SECTION 36-778.

5 36-777. Health care adjustment account

6 A. THE HEALTH CARE ADJUSTMENT ACCOUNT IS ESTABLISHED
7 CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION 36-770. THE
8 DEPARTMENT OF REVENUE SHALL ADMINISTER THE ACCOUNT.

9 B. THE DEPARTMENT OF REVENUE SHALL TRANSFER APPROPRIATE
10 AMOUNTS OF ACCOUNT MONIES TO THE HEALTH EDUCATION ACCOUNT
11 ESTABLISHED BY SECTION 36-772, THE HEALTH RESEARCH ACCOUNT
12 ESTABLISHED BY SECTION 36-773 AND THE MEDICALLY NEEDY ACCOUNT
13 ESTABLISHED BY SECTION 36-774 TO COMPENSATE FOR DECREASES IN
14 THESE ACCOUNTS DUE TO LOWER TOBACCO TAX REVENUES AVAILABLE UNDER
15 SECTION 36-771 AS A RESULT OF THE LEVY OF LUXURY TAXES THAT ARE
16 DEDICATED TO THE TOBACCO PRODUCTS TAX FUND PURSUANT TO SECTION
17 42-3251.01.

18 C. ANY MONIES IN THE ACCOUNT IN EXCESS OF THE AMOUNT
19 NEEDED FOR THE ADJUSTMENTS PRESCRIBED IN THIS SECTION REVERT TO
20 THE TOBACCO PRODUCTS TAX FUND FOR DISTRIBUTION IN EQUAL AMOUNTS
21 TO THE ACCOUNTS DESCRIBED IN SECTION 36-770, SUBSECTIONS B, C,
22 D AND E.

23 36-778. Proposition 204 protection account

24 A. THE PROPOSITION 204 PROTECTION ACCOUNT IS ESTABLISHED
25 CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION 36-770. THE
26 ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION SHALL
27 ADMINISTER THE ACCOUNT.

28 B. THE ADMINISTRATION SHALL USE ACCOUNT MONIES TO
29 IMPLEMENT AND FUND PROGRAMS AND SERVICES REQUIRED AS A RESULT OF
30 THE EXPANDED DEFINITION OF AN ELIGIBLE PERSON PRESCRIBED IN
31 SECTION 36-2901.01.

32 C. THE ADMINISTRATION SHALL SPEND THE BALANCE OF MONIES
33 IN THE ACCOUNT BEFORE IT SPENDS MONIES FROM THE ARIZONA TOBACCO
34 LITIGATION SETTLEMENT FUND ESTABLISHED BY SECTION 36-2901.02.

35 Sec. 6. Title 42, chapter 3, article 6, Arizona Revised
36 Statutes, is amended by adding section 42-3251.01, to read:

37 42-3251.01. Levy and collection of tobacco tax

38 A. IN ADDITION TO THE TAXES IMPOSED BY SECTION 42-3251,
39 PARAGRAPHS 1 THROUGH 5, THERE IS LEVIED AND SHALL BE COLLECTED
40 AN ADDITIONAL TAX OF ONE AND ONE-HALF TIMES THE TAX PRESCRIBED
41 IN THAT SECTION ON JANUARY 1, 2002.

42 B. MONIES COLLECTED PURSUANT TO THIS SECTION SHALL BE
43 DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE
44 TOBACCO PRODUCTS TAX FUND ESTABLISHED BY SECTION 36-770.

1 Sec. 7. Section 42-3302, Arizona Revised Statutes, is
2 amended to read:

3 42-3302. Levy; rates; disposition of revenues

4 A. In addition to all other taxes, there is levied and
5 shall be collected by the department a tax on the purchase on an
6 Indian reservation of cigarettes, cigars, smoking tobacco, plug
7 tobacco, snuff and other forms of tobacco at the rates
8 prescribed by section SECTIONS 42-3251 AND 42-3251.01.

9 B. The department shall deposit, pursuant to sections
10 35-146 and 35-147, monies levied and collected pursuant to
11 subsection A of this section in the tobacco tax and health care
12 fund established by section 36-771 AND THE TOBACCO PRODUCTS TAX
13 FUND ESTABLISHED BY SECTION 36-770 for use as prescribed by
14 title 36, chapter 6, article 8.

15 C. If an Indian tribe imposes a luxury, sales,
16 transaction privilege or similar tax on cigarettes, cigars,
17 smoking tobacco, plug tobacco, snuff and other forms of tobacco
18 but at a rate that is:

19 1. Less than that prescribed by subsection A of this
20 section, the tax imposed by this article shall be levied at a
21 rate equal to the difference between the rate prescribed by
22 subsection A of this section and the tax imposed by the Indian
23 tribe.

24 2. Equal to or greater than the tax prescribed by
25 subsection A of this section, then the rate of tax under this
26 article is zero.

27 Sec. 8. Tobacco revenue use, spending and tracking
28 commission; membership; duties

29 A. On or before January 1, 2004, the legislature shall
30 establish a tobacco revenue use, spending and tracking
31 commission.

32 B. The commission shall include members that have
33 expertise in the following:

- 34 1. Public health services.
35 2. Tobacco cessation or tobacco addiction programs.
36 3. School-based tobacco education programs.
37 4. Marketing or public relations.
38 5. Research and evaluation of public health programs.

39 C. The commission shall advise and consult with the
40 department of health services on the goals, objectives and
41 activities of programs that receive monies pursuant to
42 section 36-772, Arizona Revised Statutes.

1 Sec. 9. Conditional enactment; effect of other ballot
2 measures; intent of measure

3 A. This measure does not become effective if another
4 measure presented to the voters in this election that deals with
5 the levy and collection of an additional tax on tobacco products
6 receives more votes than this measure.

7 B. It is the intent of this measure to prescribe the only
8 levy and collection of an additional tax on tobacco products in
9 this election.

10 Sec. 10. Transfer of monies

11 Any monies in the health education account on the
12 effective date of the repeal of section 36-772, Arizona Revised
13 Statutes, are transferred to the health education account
14 established by section 4 of this act.

15 2. The Secretary of State shall submit this proposition to the voters
16 at the next general election as provided by article IV, part 1, section 1,
17 Constitution of Arizona.

PASSED BY THE HOUSE MAY 9, 2002.

PASSED BY THE SENATE MAY 15, 2002.


FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 15, 2002.

ON RECONSIDERATION

Passed the House May 9, 2002

by the following vote: 35 Ayes

22 Nays, 3 Not Voting

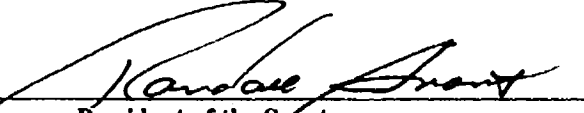

Speaker of the House

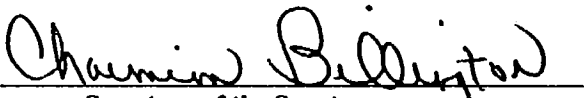

Assistant Chief Clerk of the House

Passed the Senate May 15, 2002

by the following vote: 20 Ayes

6 Nays, 4 Not Voting


President of the Senate


Secretary of the Senate

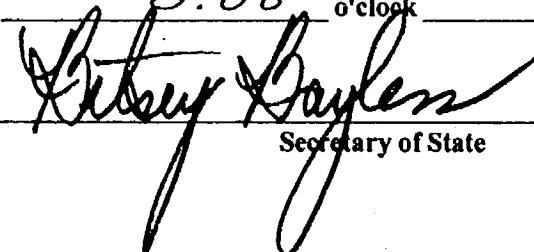
**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Resolution was received by the Secretary of State

H.C.R. 2047

this 15 day of May, 2002

at 3:08 o'clock P. M.


Secretary of State

Failed

Passed the House May 8, 2002

by the following vote: 25 Ayes

26 Nays, 9 Not Voting

Speaker of the House

Norman L. Moore
Chief Clerk of the House

~~Passed the Senate _____, 20____~~

~~by the following vote: _____ Ayes~~

~~_____ Nays _____ Not Voting~~

~~_____
President of the Senate~~

~~_____
Secretary of the Senate~~

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

~~This Resolution was received by the Secretary of State~~

~~this _____ day of _____, 20____~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary of State~~

H.C.R. 2047